

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

MELREE LAREA GLENN,

Case No. 2:18-cv-00006-AA

ORDER

Petitioner,

v.

STATE OF OREGON, STEPHEN
K. BUSHONG,

Respondents.

AIKEN, District Judge:

Petitioner, an inmate at Two Rivers Correctional Institution, brings this habeas corpus action pursuant to 28 U.S.C. § 2254 and applies to proceed in forma pauperis.

Petitioner seeks to challenge the constitutionality of his November 2017 convictions for aggravated theft and burglary. According to petitioner, he was convicted after trial and received a sentence of 36 months' imprisonment. Petitioner represents that he is directly appealing his conviction, and his appeal is currently pending in the Oregon Court of Appeals. *See* Pet. at 2-3 (ECF No. 2).

“Before seeking a federal writ of habeas corpus, a state prisoner must exhaust available state remedies, thereby giving the State the opportunity to pass upon and correct alleged violations of its prisoners’ federal rights.” *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (internal quotation marks and citation omitted). In order to exhaust his state remedies, petitioner must present his federal constitutional claims to the State’s highest court before seeking federal habeas relief. *Id.*; *Cooper v. Neven*, 641 F.3d 322, 326 (9th Cir. 2011) (“Exhaustion requires the petitioner to ‘fairly present’ his claims to the highest court of the state.”). A prisoner’s failure to raise his claims before the state court and exhaust his state remedies may be excused only if “there is an absence of available State corrective process” or “circumstances exist that render such process ineffective to protect the rights of the applicant.” 28 U.S.C. § 2254(b)(1)(B).

Petitioner acknowledges that he has an appeal pending in the Oregon Court of Appeals and therefore he has not exhausted his state remedies. Accordingly, the Petition for Writ of Habeas Corpus (ECF No. 2) is DISMISSED without prejudice.

IT IS SO ORDERED.

DATED this 24 day of January, 2018.



Ann Aiken
United States Magistrate Judge